

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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JEFF N. ROSE,

Petitioner,

v.

CHARLES DANIELS, *et al.*,

Respondents.

Case No. 3:13-cv-00267-MMD-CSD

ORDER

Respondents move to reopen this 28 U.S.C. § 2254 petition for writ of habeas corpus for the limited purpose of addressing their Motion for This Court to Vacate the Order Granting Release Pursuant to Fed. R. App. P. 23 and to Find the Judgment Satisfied Pursuant to Fed. R. Civ. P. 60(5). (ECF Nos. 87, 88 (filed contemporaneously).) The Court grants the motion to reopen and sets a briefing schedule on shortened time for the motion to vacate.

The Court denied Petitioner Jeff N. Rose's first amended petition. (ECF No. 44.) On appeal, the United States Court of Appeals for the Ninth Circuit affirmed in part, reversed in part, and remanded with instructions to conditionally grant the writ pending a new trial. (ECF No. 48.) This Court vacated its order addressing the petition in part as to the denial of relief on Ground 1 (ECF No. 44), reopened the case, and conditionally granted Ground 1. (ECF No. 65.) The Court also vacated the state judgment of conviction and ordered Rose "released from all forms of custody and all other restrictions and consequences that flowed from said judgment within 30 days of entry of this order, unless" the Respondents filed an election to retry within 30 days and jury trial commenced within 120 days, subject to modification. (*Id.* at 1-2.) The Court ordered Rose would "continue on release subject to the same conditions that the Court imposed (ECF Nos. 56, 57)

1 pending, *inter alia*, Respondents' notice of election." (ECF No. 65 at 1-2.) The parties
2 have since stipulated several times to amend or alter the judgment to give the county
3 prosecutor and defense counsel additional time to retry Rose; the current deadline for
4 retrial is October 1, 2023. (ECF Nos. 68-78, 80-81.) Respondents now inform the Court
5 that Rose's retrial in the Eighth Judicial District Court, Clark County, Nevada is currently
6 scheduled to commence on July 31, 2023. (ECF No. 87 at 2.)

7 Therefore, Respondents move to reopen this case for the limited purpose of
8 addressing their Motion for This Court to Vacate the Order Granting Release Pursuant to
9 Fed. R. App. P. 23 and to Find the Judgment Satisfied Pursuant to Fed. R. Civ. P. 60(5).
10 (ECF Nos. 87, 88.)


11 Good cause appearing, it is therefore ordered that Respondents' Motion to Reopen
12 Habeas Corpus Proceeding for Limited Purpose (ECF No. 87) is granted.

13 It is further ordered that the Clerk of Court reopen the file in this action.

14 It is further ordered that Petitioner respond to the Motion for This Court to Vacate
15 the Order Granting Release Pursuant to Fed. R. App. P. 23 and to Find the Judgment
16 Satisfied Pursuant to Fed. R. Civ. P. 60(5) (ECF No. 88) within seven days of this order.

17 It is further ordered that Respondents reply in support of their motion within five
18 days of Petitioner filing his response.

19 DATED THIS 8th Day of May 2023.

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22 MIRANDA M. DU
23 CHIEF UNITED STATES DISTRICT JUDGE
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